

# MISSOURI COURT OF APPEALS WESTERN DISTRICT

**PATRICK KLEIN,**

**Appellant,**

**v.**

**JENNIFER KLEIN,**

**Respondent.**

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DOCKET NUMBER WD78026

**Date: September 29, 2015**

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Appeal from:  
Clay County Circuit Court  
The Honorable Kathryn E. Davis, Judge

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Appellate Judges:  
Division Three: Karen King Mitchell, Presiding Judge, Lisa White Hardwick and Anthony  
Rex Gabbert, Judges

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Attorneys:  
Marilyn M. Shapiro, Kansas City, MO for appellant.  
Allen S. Russell, Kansas City, MO for respondent.

# **MISSOURI APPELLATE COURT OPINION SUMMARY**

## **COURT OF APPEALS -- WESTERN DISTRICT**

**PATRICK KLEIN**

**Appellant,**

**v.**

**JENNIFER KLEIN,**

**Respondent.**

WD78026

Clay County

Before Division Three: Karen King Mitchell, Presiding Judge, Lisa White Hardwick and Anthony Rex Gabbert, Judges

Patrick Klein ("Father") appeals the circuit court's judgment granting Jennifer Klein's ("Mother") motion for modification of child support and maintenance. Father contends the circuit court erred in: (1) finding that the child was not emancipated; (2) awarding child support retroactive to a date prior to Mother's motion to modify; (3) failing to order child support payments be made directly to the child; (4) calculating the amount of child support; and (5) extending maintenance payments beyond the termination date provided in the dissolution judgment.

**AFFIRMED IN PART; REVERSED AND REMANDED IN PART**

Division Three holds: Because the child was enrolled in an institution of higher education not later than October first and received passing grades in more than half of his classes, the circuit court did not err in finding that the child was not emancipated. Furthermore, the circuit court did not abuse its discretion in ordering child support payments be made to Mother rather than directly to the child. Because no evidence

indicated a compulsion of circumstances or Mother's acquiescence, the circuit court did not err in failing to give Father credit for monthly expenditures made on the child's behalf. Finally, the circuit court had statutory authority to extend maintenance beyond the termination date provided in the dissolution judgment and its award extending maintenance was supported by substantial evidence. However, because the circuit court may award child support retroactive only to the date of the filing of the prevailing motion, the court erred in awarding child support retroactive to a date prior to Mother's motion to modify. The circuit court's award is also reversed and remanded for the court to recalculate child support to include Father's payment of health insurance premiums for the child.

Opinion by: Lisa White Hardwick, Judge

**September 29, 2015**

**THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.**